

Senate Engrossed

liquor licenses; prohibition; county island

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

# SENATE BILL 1322

AN ACT

AMENDING SECTION 4-203, ARIZONA REVISED STATUTES; RELATING TO LIQUOR  
LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 4-203, Arizona Revised Statutes, is amended to  
3 read:

4 4-203. Licenses; issuance; transfer; reversion to state;  
5 prohibition

6 A. A spirituous liquor license shall be issued only after  
7 satisfactory showing of the capability, qualifications and reliability of  
8 the applicant and, with the exception of wholesaler, producer, government  
9 or club licenses, that the public convenience requires and that the best  
10 interest of the community will be substantially served by the issuance. If  
11 an application is filed for the issuance of a transferable or  
12 nontransferable license, other than for a craft distiller license, a  
13 microbrewery license or a farm winery license, for a location that on the  
14 date the application is filed has a valid license of the same series, or  
15 in the case of a restaurant license application filed for a location with  
16 a valid hotel-motel license, issued at that location, there shall be a  
17 rebuttable presumption that the public convenience and best interest of  
18 the community at that location was established at the time the location  
19 was previously licensed. The presumption may be rebutted by competent  
20 contrary evidence. The presumption shall not apply once the licensed  
21 location has not been in use for more than one hundred eighty days and the  
22 presumption shall not extend to the personal qualifications of the  
23 applicant.

24 B. The license shall be to manufacture, sell or deal in spirituous  
25 liquors only at the place and in the manner provided in the license. A  
26 separate license shall be issued for each specific business, and each  
27 shall specify:

28 1. The particular spirituous liquors that the licensee is  
29 authorized to manufacture, sell or deal in.

30 2. The place of business for which issued.

31 3. The purpose for which the liquors may be manufactured or sold.

32 C. A spirituous liquor license issued to a bar, a liquor store or a  
33 beer and wine bar shall be transferable as to any permitted location  
34 within the same county, if the transfer meets the requirements of an  
35 original application. A spirituous liquor license may be transferred to a  
36 person qualified to be a licensee, if the transfer is pursuant to either  
37 judicial decree, nonjudicial foreclosure of a legal or equitable lien,  
38 including security interests held by financial institutions pursuant to  
39 section 4-205.05, a sale of the license, a bona fide sale of the entire  
40 business and stock in trade, or other bona fide transactions that are  
41 provided for by rule. Any change in ownership of the business of a  
42 licensee, directly or indirectly, as defined by rule is deemed a transfer,  
43 except that there is no transfer if a new artificial person is added to  
44 the ownership of a licensee's business but the controlling persons remain

1 identical to the controlling persons that have been previously disclosed  
2 to the director as part of the licensee's existing ownership.

3 D. All applications for a new license pursuant to section 4-201 or  
4 for a transfer to a new location pursuant to subsection C of this section  
5 shall be filed with and determined by the director, except when the  
6 governing body of the city or town or the board of supervisors receiving  
7 an application pursuant to section 4-201 orders disapproval of the  
8 application or when the director, the state liquor board or any aggrieved  
9 party requests a hearing. The application shall then be presented to the  
10 state liquor board, and the new license or transfer shall not become  
11 effective unless approved by the state liquor board.

12 E. A person who assigns, surrenders, transfers or sells control of  
13 a liquor license or business that has a spirituous liquor license shall  
14 notify the director within thirty business days after the assignment,  
15 surrender, transfer or sale. A spirituous liquor license shall not be  
16 leased or subleased. A concession agreement entered into under section  
17 4-205.03 is not considered a lease or sublease in violation of this  
18 section.

19 F. If a person other than those persons originally licensed  
20 acquires control over a license or licensee, the person shall file notice  
21 of the acquisition with the director within thirty business days after the  
22 acquisition of control and a list of officers, directors or other  
23 controlling persons on a form prescribed by the director. There is no  
24 acquisition of control if a new person is added to the ownership of a  
25 licensee's business but the controlling persons remain identical to the  
26 controlling persons that have been previously disclosed to the director as  
27 part of the licensee's existing ownership. All officers, directors or  
28 other controlling persons shall meet the qualifications for licensure as  
29 prescribed by this title. On request, the director shall conduct a  
30 preinvestigation before the assignment, sale or transfer of control of a  
31 license or licensee, the reasonable costs of which, not more than \$1,000,  
32 shall be borne by the applicant. The preinvestigation shall determine  
33 whether the qualifications for licensure as prescribed by this title are  
34 met. On receipt of notice of an acquisition of control or request of a  
35 preinvestigation, the director, within fifteen days after receipt, shall  
36 forward the notice of the acquisition of control to the local governing  
37 body of the city or town, if the licensed premises is in an incorporated  
38 area, or the county, if the licensed premises is in an unincorporated  
39 area. The director shall include in the notice to the local governing  
40 body written instructions on how the local governing body may examine,  
41 free of charge, the results of the department's investigation regarding  
42 the capabilities, qualifications and reliability of all officers,  
43 directors or other controlling persons listed in the application for  
44 acquisition of control. The local governing body, or the governing body's  
45 designee, may provide the director with a recommendation, either in favor

1 of or against the acquisition of control, within sixty days after the  
2 director mails the notice, but section 4-201 does not apply to the  
3 acquisition of control provided for in this section. A local governing  
4 body may charge not more than one fee, regardless of the number of  
5 licenses held by the applicant, for review of one or more applications for  
6 acquisition of control submitted to the department at the same time and  
7 for the same entity. Within one hundred five days after filing the notice  
8 of the acquisition of control, the director shall determine whether the  
9 applicant is qualified, capable and reliable for licensure. A  
10 recommendation by the local governing body, or the governing body's  
11 designee, against the acquisition of control or denial by the director  
12 shall be set for a hearing before the board. The person who has acquired  
13 control of a license or licensee has the burden of an original application  
14 at the hearing, and the board shall make its determination pursuant to  
15 section 4-202 and this section with respect to capability, reliability and  
16 qualification.

17 G. A licensee who holds a license in nonuse status for more than  
18 five months shall be required to pay a \$100 surcharge for each month  
19 thereafter. The surcharge shall be paid at the time the license is  
20 returned to active status. A license automatically reverts to the state  
21 after being held in continuous nonuse for more than thirty-six months.  
22 The director may waive the surcharge and may extend the time period  
23 provided in this subsection for good cause if the licensee files a written  
24 request for an extension of time to place the license in active status  
25 before the date of the automatic reversion. Unless the reverted license of  
26 the licensee has been subsequently reissued, the director shall relieve a  
27 licensee or its legal representative from a prior license reversion under  
28 this section if the request for such relief is filed in writing not later  
29 than two years after the date of reversion. A license shall not be deemed  
30 to have gone into active status if the license is transferred to a  
31 location that at the time of or immediately before the transfer had an  
32 active license of the same type, unless the licenses are under common  
33 ownership or control.

34 H. A restructuring of a licensee's business is not an acquisition  
35 of control, a transfer of a spirituous liquor license or the issuance of a  
36 new spirituous liquor license if both of the following apply:

37 1. All of the controlling persons of the licensee and the new  
38 business entity are identical.

39 2. There is no change in control or beneficial ownership.

40 I. If subsection H of this section applies, the licensee's history  
41 of violations of this title is the history of the new business entity. The  
42 director may prescribe a form and shall require the applicant to provide  
43 the necessary information to ensure compliance with this subsection and  
44 subsections F and G of this section.

1 J. Notwithstanding subsection B of this section, the holder of a  
2 retail license in this state having off-sale privileges, except a bar,  
3 beer and wine bar or restaurant licensee, may take orders by telephone,  
4 mail, fax or catalog, through the internet or by other means for the sale  
5 and delivery of spirituous liquor off of the licensed premises to a person  
6 in this state in connection with the sale of spirituous liquor.  
7 Notwithstanding the definition of "sell" prescribed in section 4-101, the  
8 placement of an order and payment pursuant to this section is not a sale  
9 until delivery has been made. At the time that the order is placed, the  
10 licensee shall inform the purchaser that state law requires a purchaser of  
11 spirituous liquor to be at least twenty-one years of age and that the  
12 person accepting delivery of the spirituous liquor is required to comply  
13 with this state's age identification requirements as prescribed in section  
14 4-241, subsections A and K. The licensee may maintain a delivery service  
15 and may contract with one or more independent contractors, that may also  
16 contract with one or more independent contractors, or may contract with a  
17 common carrier for delivery of spirituous liquor if the spirituous liquor  
18 is loaded for delivery at the premises of the retail licensee in this  
19 state and delivered in this state. Except if the person delivering the  
20 order has personally retrieved and bagged or otherwise packaged the  
21 container of spirituous liquor for delivery and the licensee records, or  
22 requires to be recorded electronically, the identification information for  
23 each delivery, all containers of spirituous liquor delivered pursuant to  
24 this subsection shall be conspicuously labeled with the words "contains  
25 alcohol, signature of person who is twenty-one years of age or older is  
26 required for delivery". The licensee is responsible for any violation of  
27 this title or any rule adopted pursuant to this title that is committed in  
28 connection with any sale or delivery of spirituous liquor. Delivery must  
29 be made by an employee of the licensee or other authorized person as  
30 provided by this section who is at least twenty-one years of age to a  
31 customer who is at least twenty-one years of age and who displays an  
32 identification at the time of delivery that complies with section 4-241,  
33 subsection K. The retail licensee shall collect payment for the full  
34 price of the spirituous liquor from the purchaser before the product  
35 leaves the licensed premises. The director shall adopt rules that set  
36 operational limits for the delivery of spirituous liquors by the holder of  
37 a retail license having off-sale privileges. With respect to the delivery  
38 of spirituous liquor, for any violation of this title or any rule adopted  
39 pursuant to this title that is based on the act or omission of a  
40 licensee's employee or other authorized person, the mitigation provision  
41 of section 4-210, subsection G applies, with the exception of the training  
42 requirement. For the purposes of this subsection and notwithstanding the  
43 definition of "sell" prescribed in section 4-101, section 4-241,  
44 subsections A and K apply only at the time of delivery. For the purposes  
45 of compliance with this subsection, an independent contractor, a

1 subcontractor of an independent contractor, the employee of an independent  
2 contractor or the employee of a subcontractor is deemed to be acting on  
3 behalf of the licensee when making a delivery of spirituous liquor for the  
4 licensee.

5 K. Except as provided in subsection J of this section, Arizona  
6 licensees may transport spirituous liquors for themselves in vehicles  
7 owned, leased or rented by the licensee.

8 L. Notwithstanding subsection B of this section, an off-sale retail  
9 licensee may provide consumer tasting of wines off of the licensed  
10 premises subject to all applicable provisions of section 4-206.01.

11 M. The director may adopt reasonable rules to protect the public  
12 interest and prevent abuse by licensees of the activities permitted such  
13 licensees by subsections J and L of this section.

14 N. Failure to pay any surcharge prescribed by subsection G of this  
15 section or failure to report the period of nonuse of a license shall be  
16 grounds for revocation of the license or grounds for any other sanction  
17 provided by this title. The director may consider extenuating  
18 circumstances if control of the license is acquired by another party in  
19 determining whether or not to impose any sanctions under this subsection.

20 O. If a licensed location has not been in use for three years, the  
21 location must requalify for a license pursuant to subsection A of this  
22 section and shall meet the same qualifications required for issuance of a  
23 new license except when the director deems that the nonuse of the location  
24 was due to circumstances beyond the licensee's control and an extension of  
25 time has been granted pursuant to subsection G of this section.

26 P. If the licensee's interest is forfeited pursuant to section  
27 4-210, subsection L, the location shall requalify for a license pursuant  
28 to subsection A of this section and shall meet the same qualifications  
29 required for issuance of a new license except when a bona fide lienholder  
30 demonstrates mitigation pursuant to section 4-210, subsection K.

31 Q. The director may implement a procedure for the issuance of a  
32 license with a licensing period of two years.

33 R. For any sale of a farm winery or craft distiller or change in  
34 ownership of a farm winery or craft distiller directly or indirectly, the  
35 business, stock-in-trade and spirituous liquor may be transferred with the  
36 ownership, in compliance with the applicable requirements of this title.

37 S. Notwithstanding subsection B of this section, bar, beer and wine  
38 bar, liquor store, beer and wine store or restaurant licensees in this  
39 state may take orders by telephone, mail, fax or catalog, through the  
40 internet or by other means for the sale and delivery of spirituous liquor  
41 off the licensed premises as follows:

42 1. Bar licensees for beer, wine, distilled spirits and mixed  
43 cocktails.

44 2. Beer and wine bar licensees for beer and wine.

1           3. Liquor store licensees for beer, wine, distilled spirits and  
2 mixed cocktails.

3           4. Beer and wine store licensees for beer and wine.

4           5. Restaurant licensees for any of the following:

5           (a) Mixed cocktails, with the sale of menu food items for  
6 consumption on or off the licensed premises, if the restaurant holds a  
7 permit issued pursuant to section 4-203.07 and section 4-205.02,  
8 subsection K or a lease pursuant to section 4-203.06.

9           (b) Beer if the restaurant holds a permit issued pursuant to  
10 section 4-205.02, subsection H.

11           (c) Beer, wine and distilled spirits if the restaurant holds an  
12 off-sale privileges lease with a bar or liquor store pursuant to section  
13 4-203.07.

14           (d) Beer and wine if the restaurant holds an off-sale privileges  
15 lease with a beer and wine bar pursuant to section 4-203.07.

16           T. Notwithstanding the definition of "sell" prescribed in section  
17 4-101, placing an order and paying for that order pursuant to subsection S  
18 of this section is not a sale until delivery has been made. At the time  
19 that the order is placed, the licensee shall inform the purchaser that  
20 state law requires a purchaser of spirituous liquor to be at least  
21 twenty-one years of age and that the person accepting delivery of the  
22 spirituous liquor is required to comply with this state's age  
23 identification requirements as prescribed in section 4-241, subsections A  
24 and K. The licensee may maintain a delivery service and may contract with  
25 one or more alcohol delivery contractors registered pursuant to section  
26 4-205.13 for delivery of spirituous liquor if the spirituous liquor is  
27 packaged and tamperproof sealed by the bar, beer and wine bar, liquor  
28 store, beer and wine store or restaurant licensee or the licensee's  
29 employee and is loaded for delivery at the premises of the restaurant,  
30 beer and wine bar, liquor store, beer and wine store or bar licensee in  
31 this state and delivered in this state on the same business day. A liquor  
32 store or beer and wine store licensee may contract with one or more  
33 independent contractors as provided in subsection J of this section for  
34 delivery of spirituous liquor if the spirituous liquor is loaded for  
35 delivery at the premises of the liquor store or beer and wine store  
36 licensee in this state and delivered in this state on the same business  
37 day. All containers of spirituous liquor delivered pursuant to subsection  
38 S of this section shall be tamperproof sealed and conspicuously labeled  
39 with the words "contains alcohol, signature of person who is twenty-one  
40 years of age or older is required for delivery". The licensee is  
41 responsible for any violation of this title or any rule adopted pursuant  
42 to this title that is committed in connection with any sale or delivery of  
43 spirituous liquor. Delivery must be made by an employee of the licensee  
44 or an employee or authorized independent contractor of a registered  
45 alcohol delivery contractor as provided by this section who is at least

1 twenty-one years of age and delivery must be made to a customer who is at  
2 least twenty-one years of age and who displays an identification at the  
3 time of delivery that complies with section 4-241, subsection K. The  
4 restaurant, beer and wine bar, liquor store, beer and wine store or bar  
5 licensee shall collect payment for the full price of the spirituous liquor  
6 from the purchaser before the product leaves the licensed premises. The  
7 director shall adopt rules that set operational limits for the delivery of  
8 spirituous liquor pursuant to this subsection and subsection S of this  
9 section with respect to the delivery of spirituous liquor. For any  
10 violation of this title or any rule adopted pursuant to this title that is  
11 based on the act or omission of a licensee's employee or a registered  
12 alcohol delivery contractor, the mitigation provision of section 4-210,  
13 subsection G applies, with the exception of the training requirement. For  
14 the purposes of this subsection and notwithstanding the definition of  
15 "sell" prescribed in section 4-101, section 4-241, subsections A and K  
16 apply only at the time of delivery. An alcohol delivery contractor, a  
17 subcontractor of an alcohol delivery contractor, an employee of an alcohol  
18 delivery contractor or an employee of a subcontractor is deemed to be  
19 acting on behalf of the licensee when making a delivery of spirituous  
20 liquor for the licensee. For the purposes of this subsection, "business  
21 day" means between the hours of 6:00 a.m. of one day and 2:00 a.m. of the  
22 next day.

23 U. NOTWITHSTANDING ANY OTHER LAW, THE DIRECTOR MAY NOT ISSUE A  
24 LICENSE TO SELL SPIRITUOUS LIQUOR AT A LOCATION IN UNINCORPORATED  
25 TERRITORY THAT IS SURROUNDED ON ALL SIDES BY AN INDIAN RESERVATION IN THIS  
26 STATE.